

AO 106A (08/18) Application for a Warrant by Telephone or Other Reliable Electronic Means

UNITED STATES DISTRICT COURT

for the
District of New Mexico


FILED
United States District Court
Albuquerque, New Mexico
Mitchell R. Elfers
Clerk of Court

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)

Jesus GARCIA
Date of Birth: XX/XX/1986
SSN: XXX-XX-5956

Case No. **21 MR 887****APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS**

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A

located in the _____ District of _____ New Mexico _____, there is now concealed (identify the person or describe the property to be seized):

See Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☐ contraband, fruits of crime, or other items illegally possessed;
☐ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
Title 18 U.S.C. 922 (g)1	Felon in possession of a firearm

The application is based on these facts:

See Attached Affidavit

- ☒ Continued on the attached sheet.
☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.



Applicant's signature

Jason Williams ATF TFO

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by
sworn telephonically and submitted by email (specify reliable electronic means).

Date: 06/30/2021

City and state: Albuquerque, NM



The Honorable Judge Steven C. Yarbrough

Printed name and title

AFFIDAVIT FOR SEARCH WARRANT

IDENTIFICATION OF THE INDIVIDUAL TO BE SEARCHED

1. Jason B. Williams, a Task Force Officer with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), being duly sworn, deposes and states:
2. Your Affiant is a full time salaried sworn law enforcement officer with the Bernalillo County Sheriff's Department, and has been so for 7 years.
3. Approximately 20 months of those years have been spent on the investigation of federal felony crimes. Part of your Affiant's duties has included being a Task Force Officer for the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives.
4. In this capacity your Affiant routinely investigates violations of federal criminal statutes, to include violation of federal firearms laws, and has specifically investigated violations related to subjects who are found to be in possession of illegal and altered firearms. Your Affiant requests that a search warrant be issued for the above-named defendant based on the following information, which your Affiant believes to be true and accurate.
5. I am an investigative, or law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510(7), in that I am an officer of the United States who is empowered by law to conduct investigations and make arrests for the offenses enumerated in Title 18.
6. The statements contained in this affidavit are based, in part, on information provided by Special Agents and Task Force Officers of the ATF and other law enforcement officers; on conversations held with police officers; and on my background and experience as a Task Force Officer of the ATF.
7. This affidavit is intended to show only that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.
8. The individual to be searched is Jesus GARCIA, with a date of birth of XX/XX/1986 and a Social Security Number of XXX-XX-5956. He is further identified as a Hispanic male adult, approximately 6'02" tall and 230 pounds in weight.
9. The applied-for warrant would authorize the taking of buccal cells from Jesus GARCIA with the use of oral swabs, which would then be forwarded to a law enforcement forensic laboratory for DNA analysis.

PROBABLE CAUSE

10. The Bernalillo County Sheriff's Department was conducting an investigation into Jesus GARCIA in reference to felon in possession of a firearm. Based on that investigation, your Affiant has learned the following:
11. On June 24, 2021, at approximately 0745 hours, deputies with the Bernalillo County Sheriff's Department were dispatched to the intersection of 118th St SW and Pavo St SW,

City of Albuquerque, State of New Mexico, in reference to a female “passed out” over the steering wheel in a vehicle.

12. Upon the arrival of deputies, a silver Honda Passport was observed with no license plate (later discovered to be NM ALLP50). Deputies observed a female, later identified as Frances Zubia, unconscious in the driver’s seat and a male passenger, later identified as Jesus GARCIA, reclined in the passenger seat who was also unconscious. Both subjects awoke and provided false identification information to deputies on scene. Frances Zubia was instructed to exit the vehicle to obtain the license plate, which was reportedly in the rear of the vehicle. At this time, tin foil with burn marks and a small handgun were observed on the dashboard near the front windshield of the vehicle in between the driver’s and passenger’s seats which was easily accessible to both individuals. Deputies asked Frances Zubia if the small firearm was a lighter or a firearm, to which she replied it’s a “gun.”
13. Meanwhile, Jesus GARCIA was speaking with deputies on the passenger side of the vehicle and provided false identification information. Both Jesus GARCIA and Frances Zubia requested medical attention, which was provided to them. It was reported that both subjects were found to have felony warrants. After the departure of the ambulance, contact was made with the registered owner who informed deputies they had transferred ownership of the vehicle and they did not want to take responsibility of the vehicle. The vehicle was towed from the scene and an inventory prior to tow was conducted.
14. A Lorcin model L25 .25 Caliber semi-automatic pistol bearing serial number 270140 with one .25 caliber cartridge in the chamber and six .25 caliber cartridges in the removable magazine was recovered from the vehicle along with various other narcotics and narcotic paraphernalia. The firearm that was recovered from the vehicle functioned as designed and was not manufactured in the state of New Mexico.
15. Frances Zubia was transported to the hospital but escaped from custody while being assessed by medical staff. She is not prohibited from possessing firearms. Jesus GARCIA was subsequently transported to the hospital as well for medical complaints. Jesus GARCIA was queried, and was found to have three felony convictions from the 2nd Judicial District of New Mexico for D-202-CR-20060388 Trafficking a Controlled Substance (2007), D-202-CR-200602862 Aggravated Assault Deadly Weapon (2007), and D-202-CR-200105746 Aggravated Battery (2014). After being released from the hospital, Jesus GARCIA attempted to escape from custody. He is currently in custody at Metropolitan Detention Center. When asked about the firearm in the vehicle, Jesus GARCIA informed deputies he did not even know it was there.
16. Your Affiant knows it is common for an individual’s DNA to be transferred to items handled by that individual.

17. Based upon these facts, your Affiant respectfully requests that a search warrant be issued for Jesus GARCIA, to collect a sample of buccal cells for forensic analysis and for use as evidence in court, as your Affiant opines there is probable cause to suggest Jesus GARCIA previously and unlawfully possessed a firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924.
18. Supervisory Assistant United States Attorney Jack Burkhead has reviewed and approved this affidavit for the application for a search warrant for Jesus GARCIA.

TECHNICAL TERMS

19. Based on my training and experience, your affiant used the following technical terms to convey the following meanings:
- a. DNA (deoxyribonucleic acid) carries design information between generations, and thus accounts for inherited biological traits (phenotypes). At conception, a father's sperm injects a set of DNA molecules into a mother's egg, which already contains a nearly matching set. Those molecules contain the designs for all the material components their child needs for growth, development, and daily living.
 - b. Buccal: pertaining to the inside of the cheek, the surface of a tooth, or the gum beside the cheek.
20. Based on my training, experience, research, and from consulting with individuals employed by forensic laboratories, it is common for individuals to transfer biological materials containing their specific DNA on the objects handled by those individuals.

CONCLUSION

21. I submit that this affidavit supports probable cause for a search warrant authorizing the collection of buccal cells for forensic analysis from Jesus GARCIA to determine specific DNA for comparison with specific DNA recovered from the above described item and potentially other recovered evidence for use as evidence in court.

Respectfully submitted,



Jason Williams ATF TFO

Electronically subscribed and telephonically sworn to
on June _30th_, 2021:



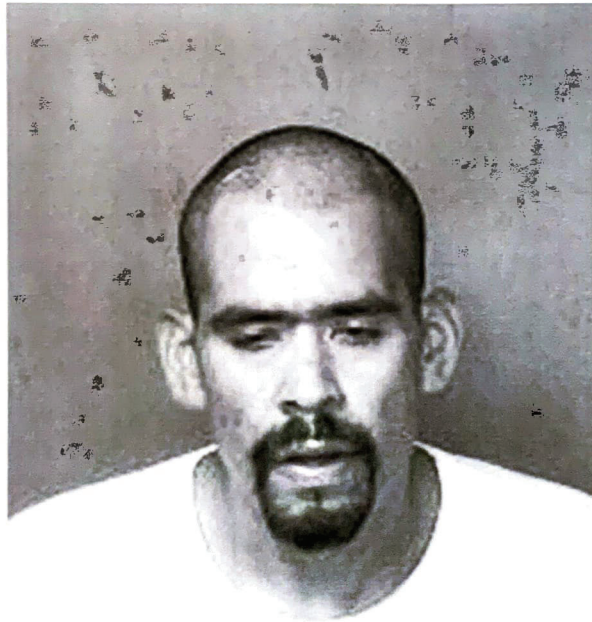
THE HONORABLE JUDGE STEVEN C.
YARBROUGH UNITED STATES MAGISTRATE
JUDGE

Attachment A

DESCRIPTION OF PERSON TO BE SEARCHED

The person known as Jesus GARCIA, Date of Birth: XX/XX/1986, SSN: XXX-XX-5956.

See below picture



Attachment B

DESCRIPTION OF EVIDENCE TO BE SEARCHED FOR AND SEIZED

DNA evidence from Jesus GARCIA, to wit; Buccal cell swabs, sufficient for DNA analysis, which would be material evidence in a criminal prosecution.